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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,837	10/11/2001	Kimitaka Murashita	1075.1175	7761

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STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

PASIEWICZ, DANIEL M

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/973,837

Applicant(s)

MURASHITA ET AL.

Examiner

Daniel M. Pasiewicz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 11-13, 15-17, 19-21, 23-25 and 27-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 14, 18, 22 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/11/01</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Species 2 drawn towards Fig. 3-5 in the reply filed on 12/9/2005 is acknowledged.
2. **Claims 2, 3 and 5-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.**
3. More specifically, **claim 2** is withdrawn from consideration as it is drawn towards non-elected species 3 that has an image data storing apparatus lent to a customer, as seen in Fig. 7, while in elected species 2 a camera is lent to a customer, as seen in Fig.
4. **Claims 3 and 7** are withdrawn as they depend from independent claim 2 with has been withdrawn as disclosed above. **Claim 5** is withdrawn from consideration as it is drawn towards non-elected species 8 that includes a database for holding personal information about the customer and a specifying means for obtaining the information from a database as disclosed in Page 58-59 of the specification and Fig. 17. **Claim 6** is withdrawn from consideration as it is drawn towards non-elected species 1 that includes image data being written onto portable medium which is then purchased by a customer which is not included in species 2 as disclosed on page 25 of the specification which states, "In comparison with the first embodiment, where the image data is stored in an external medium 30, which is then to be purchased by a customer, the image data is stored, in the second embodiment, in the image server 40".
4. Election was made **without** traverse in the reply filed on 12/9/2005.

### ***Specification***

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Image Data Server Which Allows A Customer To Access Images At A Remote Location Taken With A Camera Lent To The Customer.

### ***Claim Objections***

6. Claim 1 and 26 is objected to because of the following informalities: improper reference to an item not mentioned prior.

- Claim 1 line 10 states, "the resulting image data" when there is no prior mention of a resulting image data.
- Claim 26 line 4 states, " the collection of a consideration to be paid" when there is no prior mention of a collection of a consideration to be paid only that there is a consideration.

7. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**9. Claims 1, 10, 18 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2001/0040625 A1 to Okada et al.**

10. With respect to **claim 1** Okada discloses, in Fig. 4-6, an image data dispensing system comprising: an image obtaining apparatus (10), adapted to be lent to a customer (200) (paragraph 51; where the digital camera 10 is adapted to be lent to a customer 200 by the customer 200 purchasing the camera 10 then returning it to the place of purchase once the customer 200 has used the camera and is ready to obtain the images), for obtaining image data by operation of the customer (200) (paragraph 46-49; where the user captures images of objects which are then stored in memory 18 of the camera 10 after processing); image manipulating means (13) for manipulating said image data, which has been obtained by said image obtaining apparatus (10), by a predetermined manipulation process (paragraph 46; where the photographed image data is manipulated by being processed by image processing portion 13 of camera 10); and image data dispensing means (50) for dispensing a resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulation means (10) (paragraph 53, 59 and 70; where the image data that was stored on the image station 50 is dispensed to the user 200 personal computer via the internet in various ways comprising by being available for download or viewing), to the

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customer for a consideration (paragraph 51; where the above dispensing is provided for a consideration comprising money as the digital camera must first be purchased for use in order to be able to have images on the server 50 for download or viewing).

11. With respect to **claim 10** Okada discloses, in Fig. 5 and 6, an image data dispensing system according to claim 1, wherein: said image data dispensing means (50) includes: an image server for storing the resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulating means (10) (paragraph 51 second to last sentence); and a communication network (100) communicably interconnecting said image server and a customer terminal (60) (paragraph 59, 70, 72, 74-79 and 113; where the customer terminal is the user's personal computer 60; also the personal computer 60 maybe be a number of other items or maybe located at the store where the digital camera 10 is returned), and the resulting image data stored in said image server (50) is dispensed to said customer terminal (60) via said communication network (100) (paragraph 70).

12. With respect to **claim 18** Okada discloses, in Fig. 5, 6 and 8A-B, an image data dispensing system according to claim 10, wherein said image data dispensing means (50) further includes access managing means for managing access attempts of the customer from said customer terminal (60) to the resulting image data stored in said image server (50) (paragraph 70 and 80-82; where the managing means is the address and password the customer receives with purchase of the camera, the address and password are then used to allow the customer access to the resulting image data stored on the server so that the customer can edit or download the resulting images at the

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customer terminal 60), such that the accessing is permitted under condition that a predetermined amount of charge has been paid for the consideration (paragraph 51; where the accessing is permitted under condition that a predetermined charge has been paid when the customer receives the address and password after buying the digital camera 10).

13. With respect to **claim 22** Okada discloses, in Fig. 8A-B and 9, an image data dispensing system according to claim 18, wherein said image data dispensing means (50) further includes reference image producing means for producing a reference image from the resulting image data stored in said image server (50), said reference image being offered to the customer without consideration (paragraph 81-84; where after the customer inputs the password a list of reference images are displayed to the customer which reference the resulting images stored in the image server 50, this is done without consideration as the images are displayed directly after the password is enter and not because of the request of the customer).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**15. Claims 14 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2001/0040625 A1 to Okada et al in view of U.S. Patent 6,522,418 to Yokomizo et al.**

16. With respect to **claim 14 Okada** discloses an image data dispensing system comprising: an image obtaining apparatus, adapted to be lent to a customer, for obtaining image data by operation of the customer; image manipulating means for manipulating said image data, which has been obtained by said image obtaining apparatus, by a predetermined manipulation process; image data dispensing means for dispensing a resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulation means, to the customer for a consideration; and said image data dispensing means includes: an image server for storing the resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulating means; and a communication network communicably interconnecting said image server and a customer terminal, and the resulting image data stored in said image server is dispensed to said customer terminal via said communication network.

17. **Okada** also discloses, in Fig. 5, 6 and 8A-B, wherein said image data dispensing means (50) further includes access managing means for managing access attempts of the customer from said customer terminal (60) to the resulting image data stored in said image server (50) (paragraph 70 and 80-82; where the managing means is the address and password the customer receives with purchase of the camera, the address and password are then used to allow the customer access to the resulting image data stored



on the server so that the customer can edit or download the resulting images at the customer terminal 60). **Okada** does not expressly disclose such that the accessing is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration.

18. In analogous art **Yokomizo** discloses, in Fig. 1, an image data dispensing system comprising: an image server which holds digital images taken by a customer, the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images, various processing and storage of the images may then be done for an amount of charge; and accessing of the digital images taken by the customer is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration. More specifically, **Yokomizo** discloses an image data dispensing system comprising: an image server (9) which holds digital images taken by a customer (column 3 lines 51-58, column 4 lines 55-59 and lines 64-67 and column 5 lines 16-19 and lines 24-27), the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images (column 5 lines 28-32; where the digital images are dispensed through the internet to a customer using the customer terminal comprising the customers PC), various processing and storage of the images may then be done for an amount of charge (column 7 lines 7-18 and column 10 lines 27-36); and accessing of the digital images taken by the customer is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration (column 17 lines 4-9; where the digital images are stored for the initial consideration of the editing by the customer at the

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customer terminal for 30 days, the customer can then maintain the images for another limited period through payment of additional fees). Therefore, **Yokomizo** teaches such that the accessing is permitted for a limited period depending upon an amount of charge said customer has paid for the consideration.

19. As stated in **Yokomizo** (column 2 lines 4-9) at the time the invention was made it would have been obvious to one of ordinary skill in the art to allow access for a limited period depending on the amount of charge as taught by Yokomizo in the image data dispensing system disclosed by Okada, for doing so would offer the customer the ability to edit and store the uploaded images on the server for an acceptable fee which allows the company that maintains the server the funding needed to maintain storage of the images for longer periods of time.

20. With respect to **claim 26 Okada** discloses an image data dispensing system comprising: an image obtaining apparatus, adapted to be lent to a customer, for obtaining image data by operation of the customer; image manipulating means for manipulating said image data, which has been obtained by said image obtaining apparatus, by a predetermined manipulation process; image data dispensing means for dispensing a resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulation means, to the customer for a consideration; and said image data dispensing means includes: an image server for storing the resulting image data, which is the image data as the result of said predetermined manipulation process by said image manipulating means; and a communication network communicably interconnecting said image server and a

customer terminal, and the resulting image data stored in said image server is dispensed to said customer terminal via said communication network.

21. **Okada** does not expressly disclose consideration collection managing means for managing a collection of a consideration of a consideration to be paid for the resulting image data; and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period.

22. In analogous art **Yokomizo** discloses, in Fig. 1, an image data dispensing system comprising: an image server which holds digital images taken by a customer, the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images, various processing and storage of the images may then be done for an amount of charge; consideration collection managing means for managing a collection of a consideration of a consideration to be paid for the resulting image data; and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period. More specifically, **Yokomizo** discloses an image data dispensing system comprising: an image server (9) which holds digital images taken by a customer (column 3 lines 51-58, column 4 lines 55-59 and lines 64-67 and column 5 lines 16-19 and lines 24-27), the digital images are then dispensed to the customer at a customer terminal through a network for editing of the digital images

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(column 5 lines 28-32; where the digital images are dispensed through the internet to a customer using the customer terminal comprising the customers PC), various processing and storage of the images may then be done for an amount of charge (column 7 lines 7-18 and column 10 lines 27-36); consideration collection managing means for managing a collection of a consideration of a consideration to be paid for the resulting image data (column 17 lines 27-32); and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period (column 17 lines 4-9; where the images are deleted after the predetermined time of e.g. 30 days if an additional fee has not been paid). Therefore, **Yokomizo** teaches consideration collection managing means for managing a collection of a consideration of a consideration to be paid for the resulting image data; and image deleting means for deleting the resulting image data stored in said image server upon recognition by said consideration collection managing means that the consideration for the image data has not yet been collected even after elapse of a predetermined time period.

23. As stated in **Yokomizo** (column 2 lines 4-9) at the time the invention was made it would have been obvious to one of ordinary skill in the art to include image deleting means for deleting images when a consideration collection managing means determines a payment has not been made for additional storage time as taught by Yokomizo in the image data dispensing system disclosed by Okada, for doing so would offer the customer the ability to edit and store the uploaded images on the server for an

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acceptable fee which allows the company that maintains the server the funding needed to maintain storage of the images for longer periods of time while removing the images of customers that do not pay the fees so that store space can be maximized to paying customers.

### ***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent 6,670,933 to Yamazaki which discloses a digital camera which uploads digital images to a server and the server allows consideration of the images for a fee paid by the user of the camera.
- U.S. Patent Application Publication 2001/0017652 A1 to Sato which discloses a camera which is adapted to be lent to a customer, the images taken by the camera are then uploaded to a photo service center for processing and purchase by the customer.
- U.S. Patent Application Publication 2001/0016824 A1 to Matsushima which discloses a camera which is lent to a customer for use for a limited time, the captured images are the uploaded to a server where they can be distributed to the customer through a network.
- U.S. Patent 6,760,128 to Jackson et al which discloses an image server that distributes images taken by a user, where the user can edit the images to create selected products for purchase by the user and the amount of the

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purchase is dependant on predetermined times from when the image was uploaded to the server.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel M. Pasiewicz whose telephone number is (571)272-5516. The examiner can normally be reached on M-F 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on (571)272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMP  
February 1, 2006

  
NGOC-YEN VU  
PRIMARY EXAMINER